

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :27981 of 2007

DATED:28-12-2007

BETWEEN:

Kakani Gram Panchayat,
Rep., by its Sarpanch,
Ch.Srinivasa Rao.
Kakani village, Narasaraopet mandal,
Guntur District.

..... PETITIONER

AND

The District Collector,
Guntur District & 4 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner; learned Government Pleader for Panchayat Raj & Rural Development; learned Government Pleader for Home and the learned counsel appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 4th respondent in laying the road in Kakani Gram Panchayat, Narasaraopet mandal, Guntur District without prior approval or resolution of the petitioner Gram Panchayat, as illegal and arbitrary.

3. It is stated that the petitioner-Kakani Gram Panchayat filed a representation before the 1st respondent-District Collector, Guntur District complaining against the 4th respondent-Mandal Development Officer, Mandal Praja Parishad office, Narasaraopet in laying a road passing through the Gram Panchayat of the petitioner. It is further stated that though the representation has been filed on

17-11-2007 before the 1st respondent, he has not taken any action against the said illegal action of the 4th respondent.

4. Learned counsel appearing for the petitioner submits that under Section 53 of the A.P. Panchayat Raj Act (for brevity, 'the

Act') all public roads in any village other than National Highways, State Highways and roads vesting in Zilla Parishad or Mandal Parishad shall vest in Gram Panchayat, and the Gram Panchayat alone is entitled to take steps to remove the encroachment to prevent unauthorized use of the road, but under Section 53(2) of the Act the Government may, after giving an opportunity to the Gram Panchayat notify any road from the operation of the Act any such public road, sewer, drain, drainage work, tunnel or culvert.

5. There is no dispute that the public roads in any village/Gram Panchayat other than the National Highways, State Highways and roads vesting in Zilla Parishad and Mandal Parishad shall vest in the Gram Panchayat. It is not known whether the said road is vested in the Mandal Parishad or the Gram Panchayat as no material has been placed before this Court. If the road is vested in the Mandal Parishad there cannot be any objection for the petitioner for the development of the road by the Mandal Development Officer even if the road is vested in the Gram Panchayat. I am unable to understand as to how the petitioner is aggrieved in the development of the road by the Mandal Parishad. Therefore, I am of the opinion that the said representation filed by the petitioner before the 1st respondent on 17-11-2007 is misconceived and without any *bona fide* intention.

6. Accordingly, Writ Petition is dismissed. No order as to costs.

V.ESWARAIAH,J

28th December, 2007.

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